IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Bail Appl..No. 4151 of 2007()

CMP.1338/2007 of J.M.F.C.,PARAPPANANGADI
CRIME NO.109/2007 OF PARAPPANANGADI POLICE STATION

.....

: PETITIONER/1ST ACCUSED

BHAKTAVALSALAN,
S/O.NAYADI, ADHIKARIMANAMMAL MANAKKAL HOUSE,
ARIYALLOOR P.O., PARAPPANANGADI.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: STATE

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.
(CRIME NO.109 OF 2007 OF PARAPPANANGADI POLICE STATION).

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4151 of 2007

Dated this the 10th day of July 2007

O R D E R

Application for regular bail. The petitioner is the first accused. Altogether there are six accused persons. The injured is a known NDF worker, it is submitted. The petitioner and the co-accused owe allegiance to the R.S.S. The alleged incident took place on 21/3/2007. There was communal tension in the locality. The accused persons had allegedly entered into a conspiracy to assault and liquidate the defacto complainant, the driver of an autorickshaw, who was a known NDF activist. The autorickshaw of the defacto complainant was hired by one of the conspirators and while the autorickshaw was proceeding with the said person as a passenger, four accused persons in two motor bikes allegedly zeroed in, on the autorickshaw and unleashed a brutal attack with dangerous weapons against the autorickshaw driver/injured. In the F.I.R, name of the petitioner is shown as the first accused. That was done on the basis of the statement of the injured person to the defacto complainant that

he had seen the petitioner talking to the person who hired the autorickshaw immediately prior to such engagement. Investigation is in progress. The petitioner was arrested on 21/6/2007. He continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. On the basis of the improbable statement that the petitioner was seen talking to the person who hired the autorickshaw, he has unnecessarily been arrayed as accused. No overt act, whatsoever has been alleged against the petitioner. The petitioner has been continuing in custody from 21/6/2007. He may now be enlarged on bail, subject to any appropriate terms, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. The allegations are serious. Communal violence had taken place in the locality. Any right thinking member of the polity is bound to take such grave allegations seriously. The co-accused have not been apprehended at all. The weapons have not been recovered. The petitioner is an important activist of the R.S.S in the locality. Available indications point to his dominant role as one of the conspirators. In any view of the matter it is too

early to consider the release of the petitioner on bail. In a serious crime like this, the investigators may be granted sufficient time to complete the investigation after the arrest of the accused. The petitioner may not be granted regular bail at this stage, submits the learned Public Prosecutor.

4. I find merit in the opposition by the learned Public Prosecutor. At this early stage of investigation, I shall scrupulously avoid any detailed discussion on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that I have taken note of all the relevant inputs including the nature and gravity of the allegations raised against the accused, the nature of the alleged role played by the petitioner, the quantum and quality of the materials that have been collected so far, the stage of the investigation and the possible deleterious impact which the release of the petitioner on bail at this early stage of the investigation would leave behind in the law and order situation in general and the investigation in this crime in particular. The petitioner, I hold, is not entitled to be released on bail at this stage.

5. I shall carefully avoid any detailed discussions on merits about the acceptability of the allegations or the credibility of the data collected. Suffice it to say that on an anxious consideration of all the relevant inputs including the nature and gravity of the allegations, stage of investigation etc., I am not persuaded to grant regular bail to the petitioners at this early stage. Investigators in a serious crime like this are certainly entitled to further time to complete the investigation.

5. In the result, this petition is dismissed. However, I may hasten to observe that the petitioner shall be at liberty to move this court or the Sessions court for bail again at a later stage of the investigation not, at any rate, prior to 24/07/2007. The investigating officer shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007